

ENTERED

January 22, 2016

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ADORACION DE LA CRUZ,

Plaintiff,

V.

UNITED RECOVERY SERVICES,.

Defendant.

§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. H-15-1752

MEMORANDUM AND RECOMMENDATION

Referred to the undersigned Magistrate Judge is Defendant United Recovery Systems, LP's Motion to Vacate Clerk's Entry of Default and for Leave to File an Answer (Document No. 10). Based on the good cause shown in the motion, and Plaintiff's expressed, on-the-record non-opposition to the motion at the Rule 16 Scheduling Conference held on January 13, 2015, the Magistrate Judge

RECOMMENDS that Defendant United Recovery Systems, LP's Motion to Vacate Clerk's Entry of Default and for Leave to File an Answer (Document No. 10) be GRANTED, that the Clerk's Entry of Default (Document No. 9) be VACATED, and that Defendant be given 21 days from the date the Clerk's Entry of Default is vacated to file an Answer or other responsive pleading.

The Clerk shall file this instrument and provide a copy to all counsel and unrepresented parties of record. Within fourteen (14) days after being served with a copy, any party may file written objections pursuant to 28 U.S.C. § 636(b)(1)(C), FED. R. CIV. P. 72(b), and General Order 80-5, S.D. Texas. Failure to file objections within such period shall bar an aggrieved party from attacking factual findings on appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Ware v. King*, 694 F.2d 89 (5th Cir. 1982), *cert. denied*, 461 U.S. 930 (1983); *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir.

1982) (en banc). Moreover, absent plain error, failure to file objections within the fourteen day period bars an aggrieved party from attacking conclusions of law on appeal. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1429 (5th Cir. 1996). The original of any written objections shall be filed with the United States District Clerk.

Signed at Houston, Texas, this 22^d day of January, 2016.


FRANCES H. STACY
UNITED STATES MAGISTRATE JUDGE